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April 5, 2013

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H. *JE Fielding ms*
Director of Public Health and Health Officer

SUBJECT: **UPDATE ON IMPLEMENTATION OF THE FOOD VEHICLE INSPECTION
GRADING ORDINANCE**

This is an update on the implementation of the food vehicle inspection grading ordinance. Your Board was provided the last update on May 21, 2012. This update reviews the current issues worked out by the Department of Public Health (DPH) Environmental Health Program and the affected industries.

Background

On October 12, 2010, your Board adopted amendments to Los Angeles County Code, Title 8 that established standards for the letter grading of food vehicles. This effort was modeled after the grading program for restaurants and markets which was approved by your Board and initiated by DPH in 1998. Under State and County law, food vehicles are subject to regulation as a "food facility"; however, this amendment to the Ordinance simply extended the letter grading program to include food vehicles and food carts. The posting of "A," "B," and "C" letter grades provides the public with a familiar indication of an operator's food safety practices, and allows for easier identification of permitted and non-permitted food vehicles and carts.

DPH Environmental Health is implementing the vehicle letter grading in two phases. Phase I was initiated in November 2010 and applies to "high risk" food vehicles such as full-service food trucks and carts. Phase II applies to "low risk" food vehicles such as pre-packaged food vendors, produce trucks, and coffee/pretzel carts, among others will be initiated once Phase I is complete. There are an estimated 6,000 food vehicles operating within the county. This total is comprised of approximately 3,200 high-risk and 2,800 low-risk food vehicles.

During implementation of Phase I, DPH Environmental Health worked closely with key stakeholders from affected parties, including the Motion Picture and Television Mobile Catering Association, the Southern California Food Vendors Association, the Loncheros Association, and various individual vendors from the mobile food cart industry. Together, Environmental Health and these stakeholders have worked to identify and address pertinent issues related to the letter grading for food vehicles. These issues are: the adoption of the ordinance by contract cities; restroom availability requirements; food service

within the motion picture and television production industry; congregation of food vehicles; enforcement of leased food vehicles; use of commissaries by food vehicle operators; disclosure of route information. This collaboration has been substantial and has led to a number of changes in our regulation of the mobile food facility industry.

Adoption of Ordinance by Contract Cities

Upon adoption, the Ordinance was effective only in the unincorporated areas of the County. Currently, the cities of Los Angeles, Santa Monica, and Arcadia have adopted the Ordinance, bringing approximately 2,600 food vehicles (43%) under the Ordinance. DPH is currently working a campaign to outreach to cities that have not yet adopted the Ordinance.

Restroom Availability Requirements

Under the California Retail Food Code (Cal-Code), food vehicles that operate in one location for more than one hour are required to have access to restroom facilities within 200 feet, "*or as otherwise approved by the enforcement agency.*" Upon initiation of Phase I of the letter grading program, associations that represent food vehicle owners/operators requested DPH to clarify this requirement. DPH Environmental Health and County Counsel conducted meetings with industry members to hear and understand their concerns and determine a feasible resolution to the restroom availability requirements.

Based on these discussions, DPH clarified the guidelines, which now state:

1. A food vehicle operator doing business at one spot for more than one hour must operate within 200 feet of an approved restroom;
2. A food vehicle that temporarily closes and stops operation for at least 15 minutes in the one (1) hour period is assumed to be operating for less than one (1) hour, and has no restroom requirement. But the operator/employees must stop food handling and properly store all pre-packaged and unpackaged food; post in plain view a closed for business sign, the time of closure, and the time the business will resume; and remain away from the food vehicle for the minimum 15 minutes;
3. A food vehicle operator who changes place before the one (1) hour period is not subject to the restroom requirement, but must assure that the new location is not within one half mile of the previous location or the new location caters to a community of customers that are separate from those served at the previous location, and the food vehicle does not return to the prior business location within 15 minutes of departing; and
4. A food vehicle operator who secures advance access to restroom facilities, as documented by a fully-executed agreement between the owner of the restroom facility, will have the restroom distance requirement extended to 300 feet.

Food Service within the Motion Picture and Television Production Industry

In discussions with the industry, several areas for food safety standard reforms were identified, specifically within the motion picture and television production industry. These areas include:

1. Outdoor food service requirements at remote film site locations;

2. Appropriate standards for support trucks on which foods are not prepared;
3. Use of portable toilets during film production; and
4. Proposed development of a single comprehensive Motion Picture Catering Operation (MPCO) permit to cover all aspects of food service associated with a production event.

As a result of these discussions, DPH and County Counsel are in the process of drafting amendments to County Ordinance, Title 11, to include the identified areas of reform. DPH anticipates presenting the draft amendments to the Board for its approval in May 2013.

Congregation of Food Vehicles

Food vehicles continue to congregate in large numbers both on private and public property, in business and residential areas. Concerns surrounding these gatherings include:

1. Restroom facility access for food handlers and the general public;
2. Refuse collection and removal;
3. Safe vehicle ingress and egress; and
4. General venue sanitation and housekeeping.

DPH continues to focus on a review of State and local codes pertaining to community events in order to determine the best options for addressing these concerns. DPH is exploring the feasibility of allowing the use of portable toilets, as well as requiring an on-site event organizer to oversee food vehicles and manage concerns related to these large gatherings. DPH is continuing to have discussions with the industry to determine how to address food vehicles that congregate in large numbers.

Enforcement of Leased Food Vehicles

It is common practice for food vehicle owners to lease their vehicles to individual operators who are not required to secure a "*public health permit*" under County Code. County Code specifies that a permit be issued to the "*owner*" of a food vehicle. This arrangement often presents difficulties in enforcement in that both parties can deny responsibility for violations. To address this, DPH will engage in further discussion with the industry and County Counsel to resolve this issue and effect appropriate changes in County Code.

Use of Commissaries by Food Vehicle Operators

Cal-Code requires that food vehicles operate in conjunction with a commissary that provides cleaning, servicing, and storage of the vehicles during periods of non-operation. Annual certification inspections of food vehicles are conducted onsite at the commissary identified by the food vehicle operator to insure that it is in fact being utilized and complies with applicable standards. However, some vehicle operators fail to operate out of a lawful commissary. DPH is working with County Counsel to strengthen County Code to clarify the responsibilities of food vehicle owners/operators and commissary operators.

Disclosure of Route Information

To date, approximately 65% of high-risk food vehicle operators have made their operation location ("route") available. This is a significant improvement from the 20% reported in the May 21, 2012 Board letter. In order to make the reporting process more accurate and complete, however, changes to the Mobile Food Facility Route Sheet were made to include more detailed information such as day(s) of operation, start and end times, and an option to provide a web address or other online information. This form has been posted on DPH's website for easy access for operators. Other changes that have been made include requiring operators to provide a Mobile Food Facility Route Sheet during all interactions with vehicle operators, such as during office hearings, office visits, and vehicle inspections.

Despite these improvements in receiving route information, DPH continues to experience difficulty in locating food vehicles for inspections. Often, food vehicles are not operating at the location or date/time specified on the route disclosures. Since the beginning of Phase I, only 39% of high-risk vehicles have been able to be located and inspected. DPH is currently in discussion with the industry to explore better methods for locating food vehicles for inspection. In addition, DPH is currently analyzing the capabilities of the future electronic permit and inspection management system, Envision Connect, to locate food vehicles.

Quality Assurance Efficiencies

The DPH Environmental Health Quality Assurance Unit (QA) have been assigned to evaluate the food vehicle letter grading program for improvements in service delivery (i.e. inspection processes and procedures) and customer service. To help in the implementation of food vehicle letter grading, QA is evaluating the current processes to maximize efficiencies. Additionally, QA is actively involved in discussions with the industry and is working toward resolution of outstanding issues.

Next Steps

As DPH continues to work with the industry through Phase I, many issues have been resolved and solutions and alternatives have been identified. DPH will continue to work with the industry and County Counsel on unresolved issues, particularly in locating food vehicles for inspection. However, to effectively resolve these challenges requires time and collaboration. As a result, DPH will submit a Phase I Final Report in December 2013. The Phase I Report will include an update of the regulatory issues and program improvements referenced above. After completion of Phase I, DPH will initiate Phase II.

If you should have any questions or would like additional information, please let me know.

JEF:pj

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors